

Advisory Action After the Filing of an Appeal Brief	Application No. 09/931,629 Examiner LONGBIT CHAI	Applicant(s) GOODMAN ET AL. Art Unit 2431
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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed as a Supplemental Appeal Brief on 9/3/2008 is acknowledged.

1. The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:
 - a. The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).
 - b. The affidavit or other evidence is not timely filed before the filing of an appeal brief. See 37 CFR 41.33(d)(2).
 2. The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.
- Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).
3. The reply is entered. An explanation of the status of the claims after entry is below or attached.
 4. Other: According to "Decision on Appeal" (i.e. BPAI Decision) filed on 10/10/2008 that indicated "we affirm the provisional rejection of claims 1, 4, and 8 under the judicially created doctrine of obviousness-type provisional double patenting over co-pending application 09/931,550", Examiner notes the claims of the instant application would be allowable if the Terminal Disclaimer has been filed and received to enable further prosecution on this allowance subject matters.

/Longbit Chai/
Primary Examiner, Art Unit 2431